

## **FACTSHEET**

**TITLE:** **WAIVER OF DESIGN STANDARDS NO. 01005**, requested by Brian D. Carstens and Associates on behalf of Roger and Rosanna Schreiner, to waive the design standards for street pavement with curb and gutter, sidewalks, street lights, street trees and to allow private wells, associated with an administrative final plat, on property generally located at 82<sup>nd</sup> and Mandarin Circle.

**STAFF RECOMMENDATION:** Approval, with certain provisions (as revised on 5/30/01).

**SPONSOR:** Planning Department

**BOARD/COMMITTEE:** Planning Commission  
Public Hearing: 05/30/01  
Administrative Action: 05/30/01

**RECOMMENDATION:** Approval with certain provisions, as revised by staff on 5/30/01 (8-0: Bayer, Carlson, Duvall, Krieser, Newman, Schwinn, Steward, and Taylor voting 'yes'; Hunter absent).

### **FINDINGS OF FACT:**

1. The Planning staff recommendation to approve the waivers requested, with certain provisions, as revised, is based upon the "Analysis" as set forth on p.4.
2. On May 30, 2001, at the public hearing before the Planning Commission, the Planning staff revised its recommendation to approve the waiver of water mains; provided that the water mains be constructed at the same time as Mandarin Court Community Unit Plan or that a special assessment district be created to complete the construction, whichever first occurs. Also provided that the property owners will not object to the creation of a special assessment district to construct water lines.
3. The staff recommendation to approve the waiver of street lights, street trees, sidewalks, and street paving with curb and gutter is also provided that the owner will not object to the installation of sidewalks, street trees, paving with curb and gutter, and street lights if and when ordered by the City Council.
4. The applicant's testimony is found on p.6, and the record consists of letters in support from the Pioneer/Mar-Ma-Ra-Lo Heights Home Owners Association and Gary and Carol Danek (p.14-15).
5. There was no testimony in opposition.
6. The Planning Commission agreed with the revised staff recommendation.

**FACTSHEET PREPARED BY:** Jean L. Walker

**DATE:** June 4, 2001

**REVIEWED BY:** \_\_\_\_\_

**DATE:** June 4, 2001

**REFERENCE NUMBER:** FS\CC\FSW01005

## **LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT**

**P.A.S.:** Waiver of Design Standards #01005

**DATE:** May 21, 2001

**\*\*REVISED May 30, 2001\*\***

**PROPOSAL:** Brian D. Carstens on behalf of Roger and Rosanna Schreiner is requesting waiver of design standards for street pavement with curb and gutter, sidewalks, street lights, street trees and request a waiver to permit private wells.

### **GENERAL INFORMATION:**

**APPLICANT:** Roger and Rosanna Schreiner  
**CONTACT:** Brian D. Carstens and Associates  
601 Old Cheney Road, Suite C  
Lincoln, NE 68516

**LOCATION:** 82<sup>nd</sup> and Mandarin Circle, generally located in the NE 1/4 of Section 10N T9N R7E

**LEGAL DESCRIPTION:**  
Lot 5 Block 2 Pioneer Heights Addition and ½ of the vacated Capitol Parkway.

**SIZE:** 2.365 Acres

**EXISTING ZONING:** R-3, Residential

**EXISTING LAND USE:** Residential and Vacant

**SURROUNDING LAND USE AND ZONING:** R-3, Residential surrounding all adjacent areas.

**COMPREHENSIVE PLAN SPECIFICATIONS:** The Comprehensive Plan specifies this area as an urban residential.

### **HISTORY:**

On **January 14, 1957**, City Council approved the Mar-Ma-Ra-Lo Heights Final Plat to the north, which included the northern portion of Mandarin Circle as well as Pagoda Lane.

On **November 1, 1962**, City Council approved the Pioneer Heights Final Plat, which covered the south portion of Mandarin Circle.

During the **1979** Zoning Update this area was converted from A-1 Single Family Dwelling District to R-3 Residential.

On **December 19, 1994**, the City Council approved Special Permit #1498 and Preliminary Plat #94003 for the Pagoda Pines CUP, which allowed 7 dwelling units on the southeast corner of Pioneers Blvd and Pagoda Dr.

On **April 7, 1997**, the City Council approved the Antelope Commons Preliminary Plat located to the west of this site.

On **July 20, 1998**, City Council approved Special Permit #1722 and Preliminary Plat #98007 for the Pioneer Greens CUP, which allowed 86 dwelling units east of 84<sup>th</sup> from Mandarin Dr., change of Zone #3112, which changed the zoning on property east of S. 84<sup>th</sup> St. from AG Agricultural to R-3 Residential, and changed the southeast corner of S. 84<sup>th</sup> St. and Pioneers Blvd from AG Agricultural to O-3 Office Park, approved Use Permit #108, which granted the authority to develop 145,000 square feet of office space at the southeast corner of S. 84<sup>th</sup> St. and Pioneers Blvd., and approved Annexation #98011, which annexed the properties along Mandarin Circle, as well as land to the north, southeast and south.

On **September 9, 1998**, the Planning Commission approved the Antelope Commons Preliminary Plat and Final Planned Unit Development, however the developer has not completed the conditions of approval. Antelope Commons is located to the west.

On **April 26, 1999**, City Council approved Annexation #99003 on properties to the east and south, which annexed the Pioneer Greens and HiMark Estates areas.

On **July 12, 2000**, the Planning Commission approved Special Permit #1856 which authorized a domiciliary care facility for 16 residents located west of S. 84<sup>th</sup> Street and south of Mandarin Circle.

On **August 28, 2000**, the City Council approved the Mandarin Court CUP, Special Permit #1830 for three single family dwelling units, located immediately to the south. The City Council granted waivers to street paving with curb and gutter, street lights, and sidewalks and to allow the Planning Director to approve an administrative final plat in accordance with Mandarin Court CUP.

On **January 22, 2001** the City Council approved Special Permit 1830A which amended Mandarin Court CUP to allow a waiver to reduce standard roadway width from 20 feet to 16 feet.

On **April 27, 2001** the applicant submitted an Administrative Final Plat indicating a request of waivers to street paving with curb and gutter, street trees, sidewalks, street lighting and city water supply. Because these waivers cannot be approved administratively, the applicant applied for a waiver of design standards to be reviewed by the Planning Commission and City Council.

### **SPECIFIC INFORMATION:**

**UTILITIES:** The sanitary sewer is in place to serve these lots. Water mains are required by the Mandarin Court CUP. When these mains are built water service will be available adjacent to this property, therefore, water mains are accessible to this site.

**TRAFFIC ANALYSIS:** The Comprehensive Plan classified Mandarin Circle as a local road and 84<sup>th</sup> Street is classified as an Urban/Rural Principal Arterial.

**PUBLIC SERVICE:** The nearest fire station is located near S. 84<sup>th</sup> and South Streets, there should be fire hydrants on the new water main serving Mandarin Court CUP.

**ANALYSIS:**

The area is inside the city limits and should be developed at city standards in accordance with the City of Lincoln Design Standards.

1. The Public Works and Utilities Department expressed no objection to allow private water wells until water mains are built to the adjoining addition, or to waive street paving with curb and gutter, and sidewalks provided the property owners will not object to the creation of a district for these in the future.
2. Lincoln Municipal Code Title 26 Land Subdivision Ordinance 26.27.030 states that “Inside the corporate limits, where the city water supply is reasonably accessible to the subdivision, the city water distribution system shall be extended to enable each lot to make a supply connection in accordance with Titles 17 and 24 of the Lincoln Municipal Code”.
3. The Health Department indicated that Nitrate/Nitrogen continues to move through the soil profile over several years and further groundwater contamination from previous sources is still possible.
4. The Health Department indicated that if the groundwater that would serve the wells for the new lots were found to be acceptable for drinking water purposes, or if treatment devices were installed to remove levels of contaminants to acceptable levels, there would be no public health reason to deny this request.
5. The Lincoln Fire Department reported in the Mandarin Court CUP Staff Report that the area does not have City water and fire hydrants for fire protection services. LFD currently contracts with the Southeast Rural Fire District for tanker water response (if available) in the event of a structure fire in this area. From LFD perspective the area should meet current design standards for subdivisions that include water mains and hydrants.

**STAFF CONCLUSION:**

1. The City water system is accessible to these lots because of the water main extension required by Mandarin Court CUP. City water is accessible and the waiver has not been justified.
2. Waivers to street paving with curb and gutter, street trees, street lights, and sidewalks are allowed provided the property owners will not object to the creation of a district for the completion of these improvements in the future.

## **STAFF RECOMMENDATION:**

- |    |   |  |
|----|---|--|
| 1. | Water main waiver   | <del>Denial</del> <u>Approval*</u> <b>(Revised by staff 5/30/01)</b> |
| 2. | Street lights, street trees, sidewalks,<br>street paving with curb and gutter | Approval**   |

\*Provided that the water mains be constructed at the same time as Mandarin Court Community Unit Plan or that a special assessment district be created to complete the construction, whichever first occurs. Provided further that the property owners will not object to the creation of a special assessment district to construct water lines. (\*\*As revised by staff on 5/30/01\*\*)

\*\*Provided the Owner will not object to the installation of sidewalks, street trees, paving with curb and gutter, and street lights when ordered by the City Council.

Prepared by:

Becky Horner  
Planner

# WAIVER OF DESIGN STANDARDS NO. 01005

## **PUBLIC HEARING BEFORE PLANNING COMMISSION:**

May 30, 2001

Members present: Krieser, Carlson, Taylor, Duvall, Newman, Schwinn, Steward and Bayer; Hunter absent.

Planning staff recommendation: Approval (as revised).

Becky Horner of the Planning Department submitted a revised staff recommendation to approve the waiver of public water supply, provided that the water mains be constructed at the time of the Mandarin Court Community Unit Plan or that a special assessment district be created to complete the construction, whichever occurs first. The property owners must agree not to object to the creation of a special assessment district.

### Proponents

**1. Brian Carstens** appeared on behalf of Roger and Rosanna Schreiner. They have submitted application for an administrative final plat to carve a 2.25 acre parcel into two one-acre plus lots. As part of the administrative plat, the subdivider is required to post surety for water, street paving with curb and gutter, sidewalks, street trees and street lights. This is a request to waive those requirements. Carstens agreed with the revised staff recommendation.

There was no testimony in opposition.

Public hearing was closed.

## **ADMINISTRATIVE ACTION BY PLANNING COMMISSION:**

May 30, 2001

Duvall moved to approve the Planning staff recommendation, as revised, which approves the waivers with certain provisions, seconded by Newman and carried 8-0: Krieser, Carlson, Taylor, Duvall, Newman, Schwinn, Steward and Bayer voting 'yes'; Hunter absent.

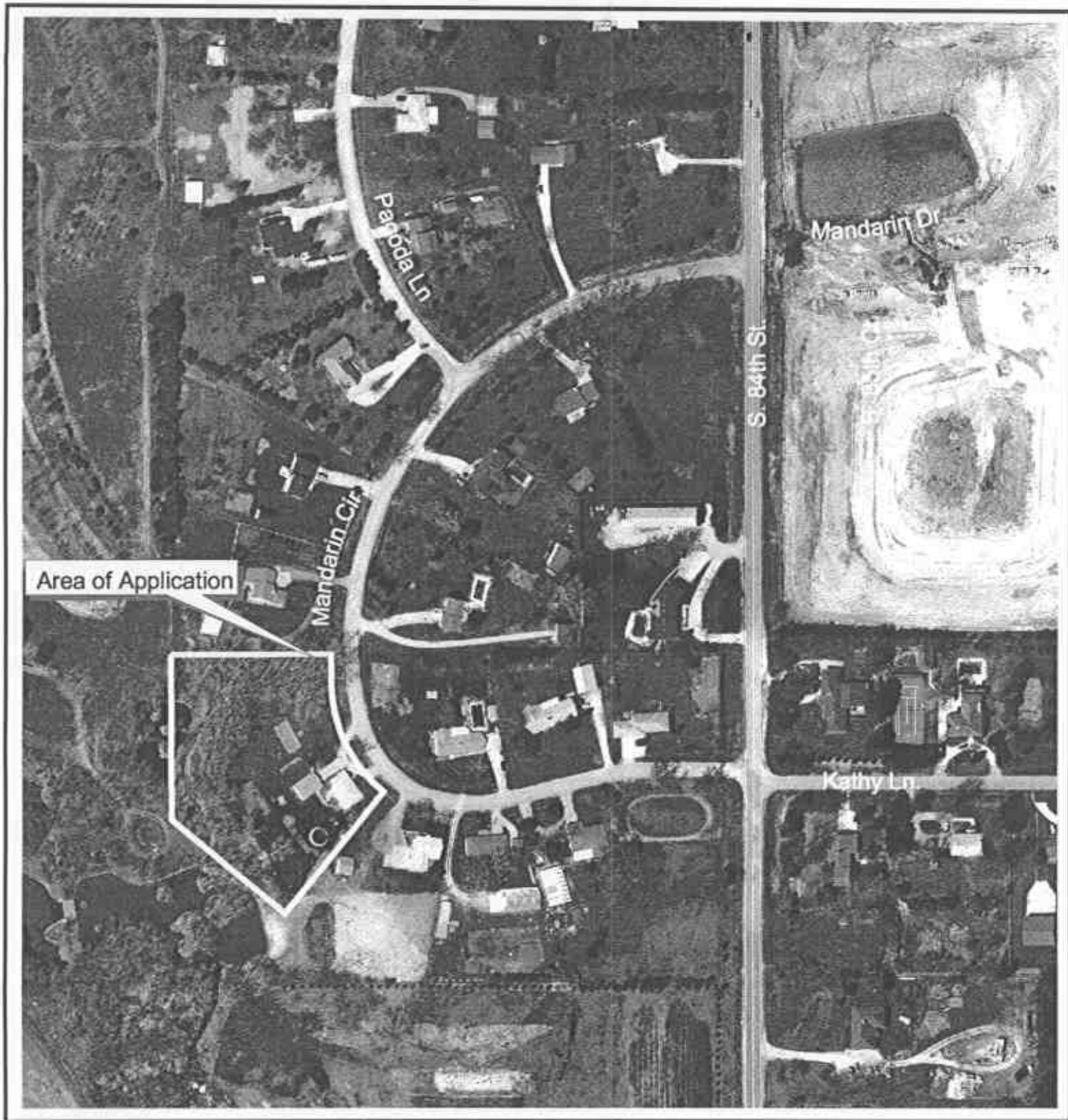
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# MEMORANDUM

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To: Planning Commission  
From: Becky Horner, Planning Dept.   
Date: May 30, 2001  
RE: Waiver of Design Standards #01005

Based upon a conversation today with Brian Carstens who represents the applicant, the Planning Department will recommend approval to the waiver of water lines provided, however, that the applicant shall construct water lines to serve these two lots at the same time that water lines are constructed for Mandarin Court Community Unit Plan and that the owners will not object to the creation of a special assessment district to construct water lines, whichever occurs first.



**Waiver of Design Standards #01005**  
**82nd & Mandarin Cir.**

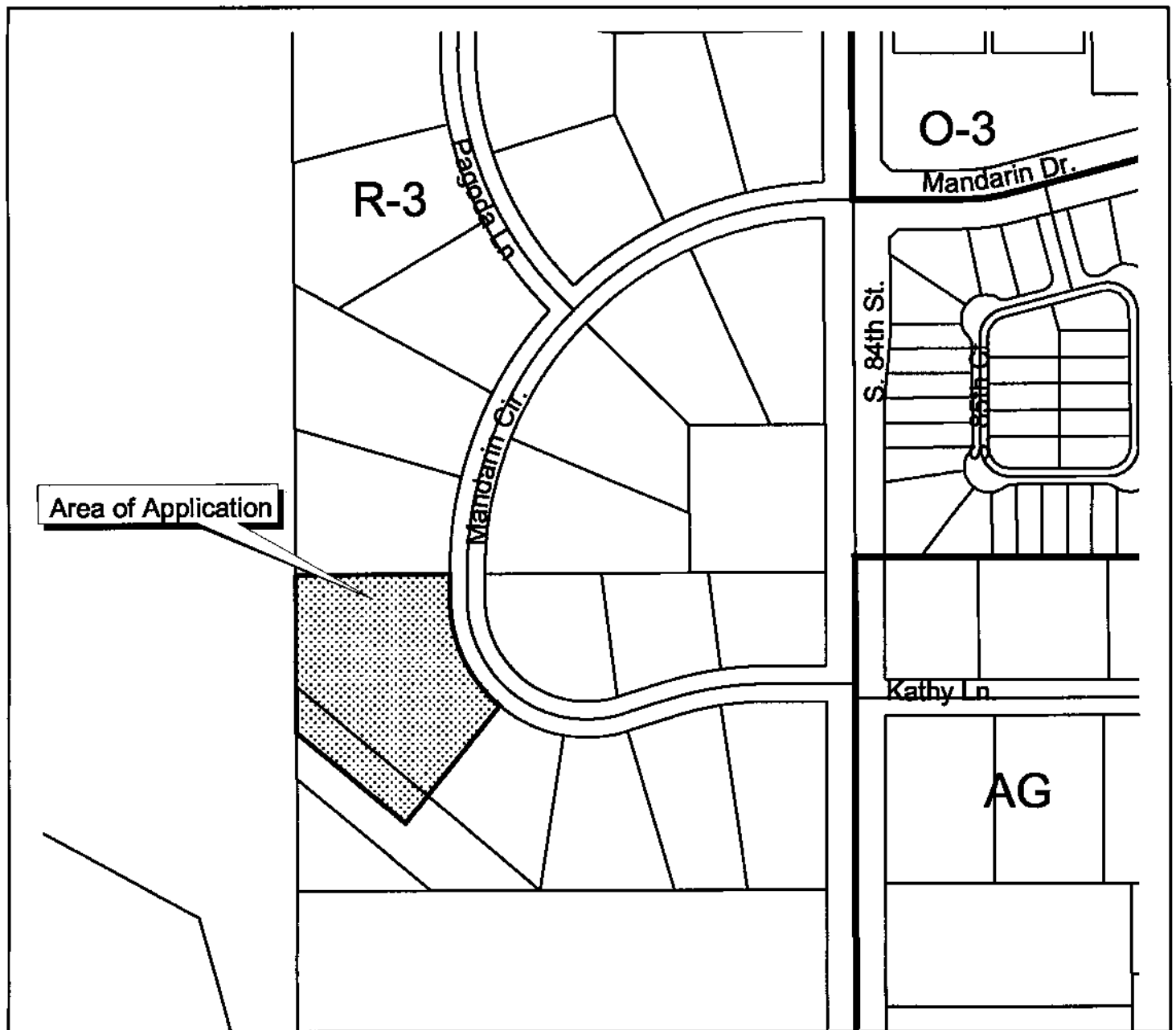


Date: **5.16.01**

Photograph Date: 1999 **008**

Lincoln City - Lancaster County Planning Dept.



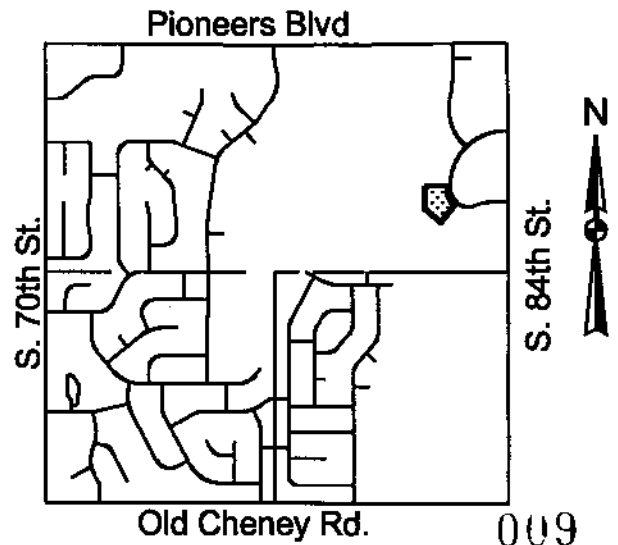
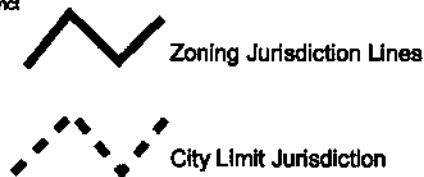


## Waiver of Design Standards #01005 82nd & Mandarin Cir.

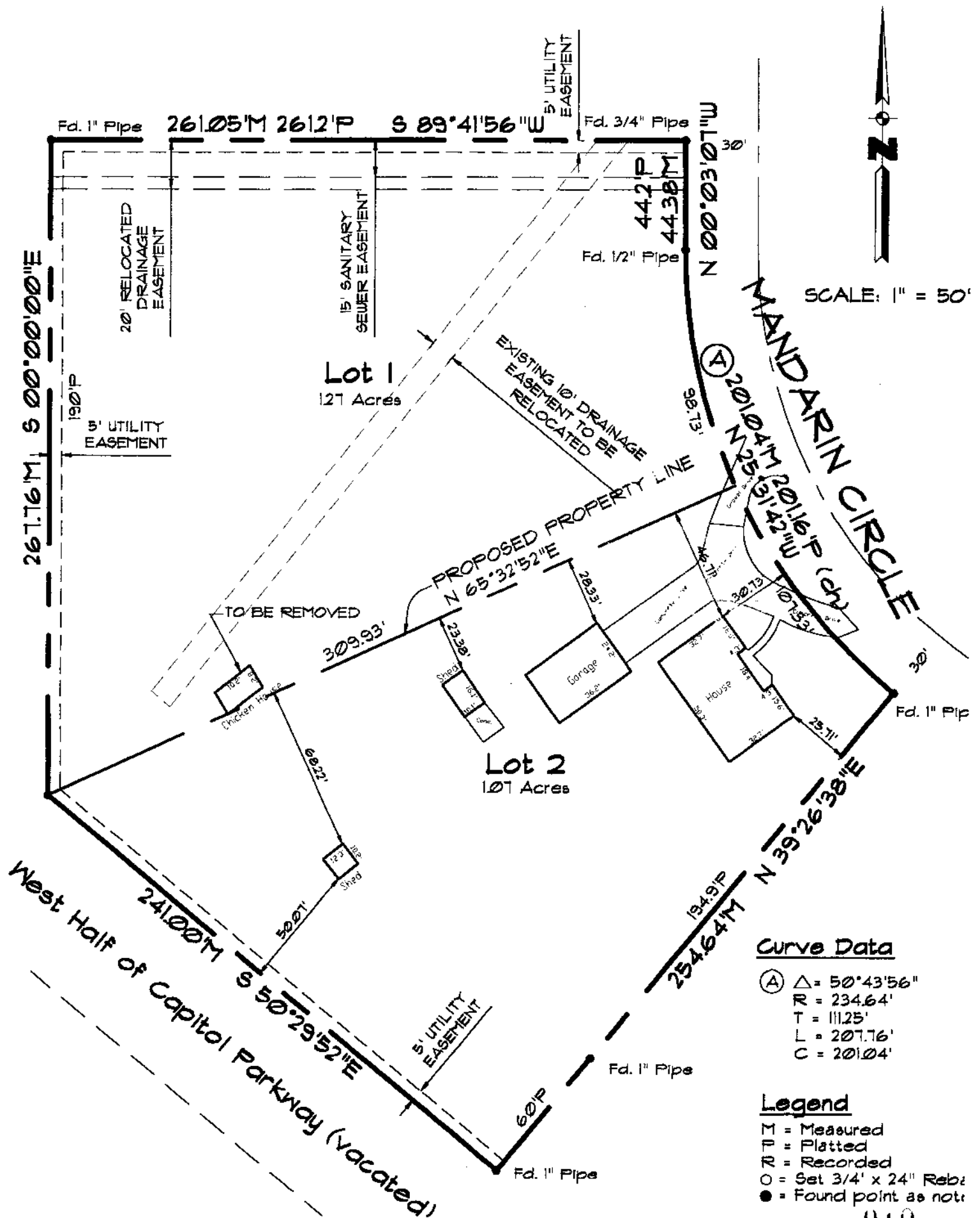
### Zoning:

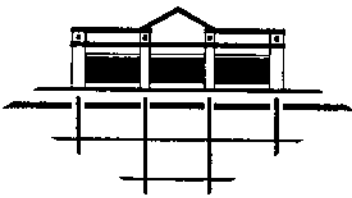
R-1 to R-8	Residential District
AG	Agricultural District
AGR	Agricultural Residential District
R-C	Residential Conservation District
O-1	Office District
O-2	Suburban Office District
O-3	Office Park District
R-T	Residential Transition District
B-1	Local Business District
B-2	Planned Neighborhood Business District
B-3	Commercial District
B-4	Lincoln Center Business District
B-5	Planned Regional Business District
H-1	Interstate Commercial District
H-2	Highway Business District
H-3	Highway Commercial District
H-4	General Commercial District
I-1	Industrial District
I-2	Industrial Park District
I-3	Employment Center District
P	Public Use District

One Square Mile  
Sec. 10 T9N R7E



## IMPROVEMENTS OF THE PROPERTY





# BRIAN D. CARSTENS AND ASSOCIATES

LAND USE PLANNING RESIDENTIAL & COMMERCIAL DESIGN

601 Old Cheney Road, Suite C Lincoln, NE 68512 Phone: 402.434.2424

April 27, 2001

Ms. Kathleen A. Sellman, AICP  
Director of Planning  
City of Lincoln/ Lancaster County  
555 South 10th Street  
Lincoln, NE 68508

RE: ADMINISTRATIVE FINAL PLAT- PIONEER HEIGHTS FIRST ADDITION

Dear Ms. Sellman,

On behalf of Roger and Rosanna Schreiner, we are submitting the above mentioned Administrative Final Plat for your review. With this plat we are creating 2 lots. We are requesting that this plat be an "Administrative" Final Plat as we are not creating any additional Right-of-Way. We are also requesting waivers to the subdivision ordinance requirements which include the following: street pavement with curb and gutter, sidewalks, street lights and street trees. Similar waivers have been approved with the Mandarin Court - C.U.P., located directly southeast of this property. These two lots are each larger than 1 acre in size.

Also, we are requesting a waiver to permit private wells to be used as the potable water supply for the existing home and a proposed residence. We recognize that Richard Spiedel will be extending a water main sometime in the future, and would agree to extend the main in front of our two lots, however, we have no control over his timeline of his water main installation.

We recognize that the Planning Commission and City Council need to approve the requested waivers.

Please contact me if you have any further questions or comments.

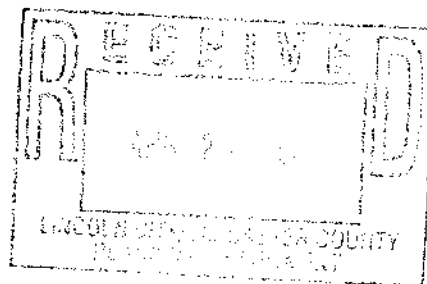
Sincerely,

Brian D. Carstens

cc: Roger & Rosanna Schreiner

ENCLOSURES:

- 16 Copies of Sheets 1 and 2 of 2
- Application for an Administrative Final Plat
- Application Fees of \$140.00
- Certificate of Ownership
- Existing Improvement Plan
- Tax Status Form - to be submitted



# Memorandum

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**To:** Becky Horner, Planning Department  
**From:** Charles W. Baker, Public Works and Utilities *BWB*  
**Subject:** Administrative Final Plat # 01027, Pioneer Heights 1st Addition *WDS 01009*  
**Date:** May 16, 2001  
**cc:** Roger Figard, Nicole Fleck-Tooze

The City Engineer's Office of the Department of Public Works and Utilities has reviewed the request for Administrative Final Plat # 01027 for Pioneer Heights 1st Addition located at 82nd and Mandarin Court. Public Works has the following comments:

The sanitary sewer to serve these lots is in place. A waiver is being requested for the street paving with curb and gutter, sidewalks, and to allow private water wells until that time that water mains are built to the adjoining addition. Public Works has no objections provided the property owners will not object to the creation of a district for these improvements in the future.



Scott Holmes  
<sholmes@ci.lincoln.  
ne.us>

05/16/01 09:27 AM

To: rhomer@ci.lincoln.ne.us, rhill <rhill@ci.lincoln.ne.us>, Scott  
Holmes <sholmes@ci.lincoln.ne.us>, Bill Pugsley  
<bpugsley@ci.lincoln.ne.us>, Joyce Jensen  
<jjensen@ci.lincoln.ne.us>, Doug Smith  
<drsmith@ci.lincoln.ne.us>, John Chess  
<jchess@ci.lincoln.ne.us>, Paul Drotzmann  
<pdrotzma@ci.lincoln.ne.us>, Ron Marquart  
<rmarquart@ci.lincoln.ne.us>, Chris Schroeder  
<cschroed@ci.lincoln.ne.us>, Marcia Huenink  
<mhuenink@ci.lincoln.ne.us>

cc:

Becky,

Subject: WDS #01005 - Administrative Final Plat Pioneer Heights First Add

LLCHD staff have reviewed the request for waiver to permit private wells to be used as the potable water supply for the existing home and a proposed residence.

A few years ago, LLCHD advocated that these areas (Mandarin and Pioneer Heights) be annexed to the city due to sewage system problems and some groundwater contamination of certain wells with Nitrate/Nitrogen. This was accomplished. Since that time, city sewer was installed and all properties were connected. Thus, at least one source of potential contamination of the groundwater in this area was resolved. However, Nitrate/Nitrogen continues to move through the soil profile over several years and further groundwater contamination from previous sources is still possible.

Lincoln Municipal Code (LMC) Land Subdivision, Minimum Improvements, Water Supply, 26.27.030 states the following, "Inside the corporate limits, where the city water supply is reasonably accessible to the subdivision, the city water distribution system shall be extended to enable each lot to make a supply connection in accordance with Titles 17 and 24 of the Lincoln Municipal Code." Thus, a determination needs to be made if the city water supply is reasonably accessible.

LMC 26.27.030 further states that "If the subdivision is annexed and the city water supply becomes available to individual lots within a subdivision, those lots shall be connected to the city water supply." When city water is extended to the Mandarin Court CUP, based on information provided to LLCHD by your Department, the water supply will go directly in front of the properties for which the waiver is requested. Thus, one could conclude that the current property with a well would be required to connect to city water. However, LMC 26.27.030 needs to be taken in context of LMC 8.44.030 which specifically states, "Whenever the use of a water well for domestic use becomes a non-conforming use through a change in the corporate limits of the city, such use may be continued." It is LLCHD's opinion that the properties currently served by wells are not required to connect to city water. Therefore, whether the request for waiver is granted or not, the current property would not have to connect to the city water supply when it becomes reasonably assessable.

You informed me yesterday that the Mandarin Court CUP approval required city water to be extended and that this water main would be directly in front of these properties. This would obviously make it reasonably assessable.

From a strictly health risk based review, if the groundwater that would serve the well for the new lot were found to be acceptable for drinking water purposes, or if treatment devices were installed to remove levels of contaminants to acceptable levels, there would be no public health reason to deny this application.

4825 Mandarin Circle  
Lincoln, NE 68516  
Phone (402) 484-6967  
Fax (402) 484-8619

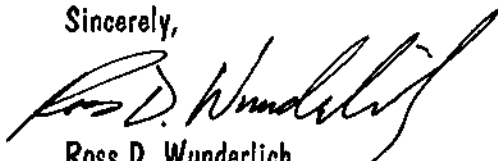
May 21, 2001

Lincoln/Lancaster County Planning Commission  
555 South 10<sup>th</sup> Street, Suite 213  
Lincoln, NE 68508

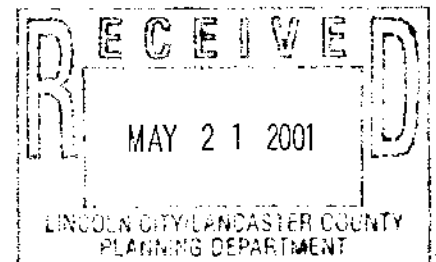
Dear Commissioners,

I am writing on behalf of the Pioneer/Mar-Ma-Ra-Lo Heights Home Owners Association to express the neighborhood's support for Waiver of Design Standards 01005 for S. 82<sup>nd</sup> Street and Mandarin Circle. The Board of Directors met on May 15, 2001 to discuss the plans with Roger Schreiner. It was agreed that we support the request for waivers of street paving, curb and gutter, sidewalks, public water supply, streetlights, and street trees. Further, we support the subdivision of the existing lot (Lot 5, Block 2, Pioneer Heights and ½ of the adjacent vacated Capital Parkway, located in the NE ¼ of Section 10, T9N, R7E, Lancaster County) into two lots of 1.27 acres and 1.07 acres as this meets the desires and character of the rest of this acreage neighborhood. The neighborhood desires to maintain single family houses on a single lot of a minimum of ¾ of an acre. This application meets that neighborhood desire.

Sincerely,



Ross D. Wunderlich  
Vice President



cc. Roger Schreiner  
Gary Danek — President Pioneer/Mar-Ma-Ra-Lo Heights Homeowners Association  
All residents of Mandarin Circle and Pagoda Drive

Email Address: [Wunconsult@aol.com](mailto:Wunconsult@aol.com)  
C:\data\PlatNo01027.doc

To: Lincoln/Lancaster Planning Commission

Subject: Waiver of Design Standards 01005  
S. 82<sup>nd</sup> and Mandarin Drive

Mr. Chairman and members of the Commission,

My name is Gary Danek and my wife Carol and I live at 4800 Mandarin Circle, directly east of the property in question. We are writing in support of the application for waiver. We have no paving with curb and gutter, sidewalks, public water supply, streetlights and street trees. The fact that we have no city water and there is no desire on the part of our neighborhood for water there should be no need for city water. Unlike the special permit you approved for Richard Spiedell to allow the construction of 2 new homes for a total of 3 on a 1 acre lot with one acre of open space, this request matches the desire of our neighborhood to have one home on one lot of  $\frac{1}{4}$  acre or larger. Each of the homes in our neighborhood except for Spiedell's lot is occupied by one home with one well. This application will be exactly the same and should not require the extension of water for one home. We as a neighborhood are trying to maintain the character of a rural acreage development and this application will certainly help us in that effort.

We strongly urge your approval of this request as it has been submitted.

Thank you for your support  
Gary & Carol Danek

*Gary Danek*  
*Carol Danek*

